

**Model Y-2**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR part 272**

[FRL-     ]

**[*Insert State name*]: Final Authorization of State-initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** In today's rule EPA grants final authorization to State-initiated changes to the [*insert State name*]'s authorized hazardous waste program. EPA has reviewed these changes and has determined that the program revisions satisfy all of the requirements necessary to qualify for final authorization. In addition, EPA is codifying [*insert State name*]'s authorized hazardous waste program in part 272 of Title 40 of the Code of Federal Regulations. This rule incorporates by reference provisions of [*insert State name*]'s hazardous waste statutes and regulations and clarifies which of these provisions are authorized and federally enforceable. Unless adverse written comments are received during the review and comment period on the parallel proposed rule also in today's Federal Register (FR) notice, the EPA's decision to authorize [*insert State name*]'s hazardous waste program revisions and to incorporate by reference its authorized

program will take effect as provided below.

**DATES:** Final authorization for *[insert State name]*'s program revisions and incorporation by reference of the *[insert State name]* authorized hazardous waste program will become effective without further notice on *[insert date at least 60 calendar days after the date of publication in the FR]*, if EPA receives no adverse comment on the parallel notice of proposed rulemaking also published in today's **Federal Register**. Any comments on this rule must be received by close of business *[insert date at least 30 calendar days after the date of publication in the FR]*, as provided in the parallel proposal in today's **Federal Register**. In accordance with 5 U.S.C. 552(a) and 1 CFR part 51, the Director of the Federal Register approved the incorporation by reference of the *[insert State name]* statutes and regulations contained in this rule as of *[insert effective date as determined above]*.

**ADDRESSES:** Copies of the *[insert State name]* program revision application and the materials which EPA used in evaluating the revisions are available for inspection and copying from *[insert business hours]* at the following addresses: *[insert appropriate State addresses]* and EPA Region *[insert Region number]*, Library, *[insert the address, phone number, and contact]*. Send written comments referring to Docket Number *[insert Docket number]*, to *[insert name, address, and phone number of the appropriate Regional contact.]*

**FOR FURTHER INFORMATION CONTACT:** *[insert name, address, and telephone]*

*number of the appropriate Regional Contact*].

## **SUPPLEMENTARY INFORMATION:**

### **I. Authorization of State-Initiated Changes**

#### **A. Background**

States with final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and must then be authorized for those changes.

#### **B.[insert State name]**

*[Insert paragraph briefly describing the State's authorization history prior to submission of this program revision application. The following is an example:]*

*[insert State name]* initially received Final Authorization on *[insert date of publication of authorization FR notice]*, effective *[insert effective date]* (\_ FR \_\_) to implement its base hazardous waste management program. *[insert State name]* received authorization for revisions to its program on *[insert date of publication of authorization FR notice]*, effective *[insert effective date]* (\_ FR \_\_), on *[insert date of publication of authorization FR notice]*, effective *[insert effective date]* (\_ FR \_\_), . . . , and on *[insert date of publication of authorization FR notice]*, effective *[insert effective date]* (\_ FR \_\_).

Subsequently of these authorizations the *[insert State name]* has revised its hazardous waste program, making conforming changes to its regulations in line with the Federal requirements. The EPA has reviewed these changes and has made an immediate final decision, subject to receipt of adverse comment, that *[insert State name]*'s hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for these revisions.

As provided in the Proposed Rules section of today's FR, the public may submit written comments on EPA's immediate final decision until *[insert date at least 30 calendar days after the date of publication in FR]*. Copies of *[insert State name]*'s application for program revision are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

If EPA does not receive adverse written comment pertaining to *[insert State name]*'s program revision by the end of the comment period, the authorization of *[insert State name]*'s revision will become effective in *### (at least 60)* days from the date this document is published. If the Agency does receive adverse written comment, it will publish a notice withdrawing this immediate final rule before its effective date. EPA will then address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so at this time.

*[Insert the following paragraph and table for State-initiated changes to provisions which have analogs at 40 CFR. Include changes to statutory and regulatory State authorities.]*

EPA grants *[insert State name]* final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to the indicated RCRA statutory provisions or RCRA regulations found at 40 CFR as of *[insert month]* *[insert year]*. The *[insert State name]* provisions are from the *[insert name and date of regulations]*, unless otherwise stated.

State Requirement	Federal Requirement

State Requirement	Federal Requirement

*[Insert discussion which summarizes the State's program changes, including any relevant changes to State statutory and regulatory authority. In addition, you may wish to insert a paragraph directing the public's attention to certain issues (e.g. the State's more stringent requirements). Describe any major portions of the State's program changes which are not part of the RCRA program (e.g., any major State requirements that are broader in scope than the relevant Federal requirements; non delegable provisions).]*

*[Insert the following paragraph and table for State-initiated changes to provisions which do not have analogs at 40 CFR. Include changes to statutory and regulatory State authorities.]*

In addition to the above listed changes, EPA is authorizing the following State provisions. Although these provisions do not have a direct analog in the Federal RCRA statute or regulations, they include changes necessary to make the State's laws and regulations internally consistent with the provisions previously authorized. EPA has reviewed these provisions and has determined that they are not less stringent than the Federal requirements, and do not go beyond the scope of the Federal requirements. The *[insert State name]* provisions are from the *[insert name and date of regulations]*, unless otherwise stated.

State Requirement

*[Insert discussion of any effect on the status of State hazardous waste permits issued before the State is authorized for these changes. It must be clear what happens, if anything, at the date of authorization.]*

*[Insert a statement as to whether or not the State is being authorized to operate in any Indian country.]*

## C. Decision

I conclude that *[insert State name]*'s program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, *[insert State name]* is granted final authorization to operate its hazardous waste program as revised.

*[insert State name]* now has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country *[add if appropriate: unless the State has explicitly demonstrated its authority and has been expressly authorized by EPA to implement the RCRA hazardous waste program in all or part of Indian country]*) and for carrying out the aspects of the RCRA program as authorized, subject to the limitations of the HSWA. *[insert State name]* also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA. *[Omit reference to Indian country if the State does not contain any Indian country. Tailor as appropriate for the particular State after consulting with the Regional Indian law and policy contact person.]*

## II. Incorporation By Reference

### A. Background



The EPA uses part 272 of Title 40 Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that are part of the authorized State program. This effort provides clearer notice to the public of the scope of the authorized programs. The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority.

***[insert the following for initial codification]***

The purpose of today's Federal Register document is to codify ***[insert State name]***'s base hazardous waste management program and its ***[insert # of revisions]*** revisions to that program. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program.

***[insert the following if the State program has been codified before]***

Effective ***[insert effective date of codification FR notice]*** (\_\_ FR \_\_), EPA incorporated by reference ***[insert State name]***'s then authorized hazardous waste program. ***[insert description of any further codification]*** The purpose of today's Federal Register document is to codify ***[insert State name]***'s subsequent ***[insert # of revisions]*** revisions to that program which have been authorized by EPA. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the

authorized and Federally enforceable program.

**B. *[Insert State name]* Authorized Hazardous Waste Program**

*[insert the following paragraph for initial codification]*

To incorporate by reference the *[Insert State name]* authorized hazardous waste program, EPA intends to add Subpart *[insert the pre-assigned Subpart designation as found in 40 CFR Part 272]* to 40 CFR part 272. The State statutes and regulations are incorporated by reference at 40 CFR 272.\_\_\_\_ and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at 40 CFR 272.\_\_\_\_, \_\_\_\_ and \_\_\_\_\_, respectively.

*[insert the following paragraph if the State has been codified previously]*

Since the initial codification, *[insert State name]* has received authorization for revisions to its program on *[insert date of publication of authorization FR notice]*, effective *[insert effective date]* (\_ FR\_), . . . , and on *[insert date of publication of authorization FR notice]*, effective *[insert effective date]* (\_ FR\_), as well as the revisions authorized in this document. In this rule EPA is revising the incorporation by reference of the *[insert State name]*'s authorized hazardous waste program in *[insert the pre-assigned Subpart designation as found in 40 CFR Part 272]* of 40 CFR part 272, to include these revisions. The State statutes and regulations are incorporated by reference at Sec. 272.\_\_\_\_, and the Memorandum of Agreement, the Attorney

General's Statement and the Program Description are referenced at 40 CFR 272.\_\_\_\_, \_\_\_\_ and \_\_\_\_\_, respectively.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to incorporate by reference for purposes of enforcement such particular, authorized *[insert State name]* enforcement authorities. Section 272.\_\_\_\_ of 40 CFR lists those enforcement authorities that are part of the authorized program but are not incorporated by reference.

*[Insert appropriate language from the following paragraphs, depending on the status of a State's regulations]*

The public also needs to be aware that some provisions of a State's hazardous waste management program are not part of the Federally authorized State program. These nonauthorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal provisions which the State incorporated into its regulations when the State adopted Federal regulations by reference, but for which the State is not authorized;

(3) Unauthorized amendments to authorized State provisions.

***[Insert the following paragraph if a State has any "broader in scope" provisions]***

State provisions that are "broader in scope" than the Federal program are not part of the RCRA authorized program and EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, section 272.\_\_\_\_ of 40 CFR lists the ***[insert State name]*** statutory and regulatory provisions which are "broader in scope" than the Federal program. Although EPA will not enforce these provisions, the State may enforce them under State law.

***[For States that adopt Federal rules by reference, describe Federal rules that the State has adopted but for which it is not authorized.]***

At ***[insert State's full citation where the State adopts Federal rule(s) by reference]***, as amended through ***[insert date]***, ***[insert State name]*** adopted by reference ***[insert a description or the list of Federal rules adopted]***. However, ***[insert State name]*** is only authorized for ***[provide a description or list of Federal rules for which the State is actually authorized]***. ***[insert State name]*** is not authorized for ***[provide description or list of Federal rules adopted by the State but for which it is not authorized]***.

*[Unauthorized State Amendments to Authorized Sections of State Code: Insert a paragraph similar to those that follow if a State has made unauthorized amendments to previously authorized sections of code but which cannot be easily crossed out (redlined) from the State regulations.]*

In addition to adopting by reference Federal rules for which the State is not authorized, *[insert State name]*'s hazardous waste regulations include amendments which have not been authorized by EPA. Since EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR 271, it is important to clarify any limitations on the scope of a State's approved hazardous waste program. Thus, in those instances where a State's method of adopting Federal law by reference has the effect of including unauthorized requirements, or where a State has made unauthorized amendments to previously authorized sections of State code, EPA will provide this clarification by: (1) incorporating by reference the relevant State legal authorities according to the requirements of the Office of Federal Register; and (2) subsequently identifying in 272.\_\_\_\_ and 272.\_\_\_\_ any requirements which while adopted and incorporated by reference, are not authorized by EPA, and therefore are not Federally enforceable. Thus, notwithstanding the language in the *[insert State name]* hazardous waste regulations incorporated by reference at 272.\_\_\_\_, EPA will only enforce the State provisions that are actually authorized by EPA. For the convenience of the regulated community, the actual State regulatory text authorized by EPA for the citations listed at 272.\_\_\_\_ is compiled as a separate document, *Addendum to the EPA-Approved [insert State name] Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management*

*Program, [insert date of EPA binder]. This document is available from U.S. EPA Region [insert number], [insert address of EPA Region]. With respect to HSWA requirements for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State receives specific HSWA authorization from EPA.*

### **C. HSWA Provisions**

The Agency is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) take effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985). EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement

or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implement by EPA. However, until EPA authorizes those State requirements, EPA can only enforce the HSWA requirements and not the State analogs. EPA will not codify those State requirements until the State receives authorization for those requirements.

### **III. Regulatory Requirements**

#### **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the

objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the [*Insert State name*] program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small



governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

### **Certification Under the Regulatory Flexibility Act**

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

### **Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### **Compliance With Executive Order 12866**

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

## Compliance with Executive Order 12875

*[Do not used the following language if the revision includes authorization to implement the program in Indian country. Please consult with the regional Indian law and policy contact person if the revision addresses authorization over Indian country.]*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from this today's action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

## **Compliance With Executive Order 13045**

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks,” applies to any rule that: (1) the Office of Management and Budget determines is “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

## **Compliance with Executive Order 13084**

***[Do not used the following language if the revision includes authorization to implement the program in Indian country. Please consult with the regional Indian law and policy contact person if the revision addresses authorization over Indian country.]***

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

***[Choose one of the following as appropriate:]***

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affects the communities of Indian tribal governments. ***[Insert State name]*** is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

***[or if the State is authorized to run the program in Indian country]***

This rule is not subject to E.O. 13084 because it does not impose substantial direct costs on the communities of Indian tribal governments. Effective ***[insert effective date of***

*authorization over Indian country*] (\_\_FR\_\_), EPA authorized the State to implement the RCRA hazardous waste program in [*specify Indian country*]. Therefore, [*Insert State name*]'s hazardous waste program applies in Indian country, and costs to the communities of Indian tribal government, if any, already exist under the [*Insert State name*]'s hazardous waste program. Today's action does not impose any additional costs.

### **Paperwork Reduction Act**

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

### **National Technology Transfer and Advancement Act**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub L. No. 104-113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are

developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

### **List of Subjects in 40 CFR Part 272**

Environmental Protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

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Regional Administrator

Dated:

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

**PART 272 - APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS**

1. The authority citation for part 272 continues to read as follows:

**Authority:** Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Subpart \_\_ is amended by **[adding/revising]** § 272.\_\_\_\_ to read as follows:

**§ 272.\_\_\_\_ [insert State name] State-Administered Program: Final Authorization.**

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), **[insert State name]** has final authorization for the following elements as submitted to EPA in **[insert State name]**'s base program application for final authorization which was approved by EPA effective on **[insert effective date]**. Subsequent program revision applications were approved effective on **[insert effective date]**, **[insert effective date]**, . . . and **[insert effective date]**.



(b) *State Statutes and Regulations.*

(1) The *[insert State name]* statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(i) The EPA Approved *[insert State name]* Statutory Requirements Applicable to the Hazardous Waste Management Program, dated *[insert date of EPA binder]*.

(ii) The EPA Approved *[insert State name]* Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated *[insert date of EPA binder]*.

(2) The following statutes and regulations concerning State procedures and enforcement, although not incorporated by reference, are part of the authorized State program:

(i) *[insert title of statutory code and date, list of statutory citations]*

(ii) *[insert title of regulatory code and date, list of regulatory citations]*

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) *[insert title of statutory code and date, list of statutory citations]*

(ii) *[insert title of regulatory code and date, list of regulatory citations]*

(4) *Unauthorized State Provisions:* The State's adoption of the Federal rules listed

below, while incorporated by reference at paragraph (b)(1) of this Section, is not approved by EPA and are, therefore, not enforceable under RCRA: *[List the non-HSWA rules adopted by the State but for which the State is not authorized. Include any nondelegable provisions. This information may be organized as shown on the table below. Also include the specific state statutory/regulatory citations if it helps identify the unauthorized provisions.]*

Federal Requirement	Federal Register Reference	Publication Date

*[Insert discussion, if needed, regarding the Federal HSWA standards adopted by the State but for which the State is not authorized:]*

Additionally *[insert State name]* has adopted but is not authorized to implement the HSWA rules that are listed below in lieu of EPA. EPA will continue to implement the Federal HSWA requirements for which *[insert State name]* is not authorized until the State receives specific authorization for those requirements. *[List the HSWA rules adopted by the State but for which the State is not authorized. Include any nondelegable provisions. This information may be organized as shown on the table below. Also include the specific state statutory/regulatory citations if it helps identify the unauthorized provisions.]*

Federal Requirement	<u>Federal Register</u> Reference	Publication Date

(5) *Unauthorized State Amendments.* The following authorized provisions of the *[insert State name]* regulations include amendments published in the *[insert name of the appropriate State publication]* that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the *[insert State name]* hazardous waste regulations incorporated by reference at § 272.\_\_, EPA will only enforce the authorized State provisions with the effective dates indicated in the table below. The actual State regulatory text authorized by EPA for the listed provisions is available as a separate document, *Addendum to the EPA-Approved [insert State name] Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, [insert date of EPA binder]*. Copies of the document can be obtained from U.S. EPA Region *[insert number]*, *[insert address of EPA Region]*.

State Provision	State Reference	Unauthorized State Amendments	
		State Reference	Effective Date

(6) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region [insert number] and the [insert State lead Agency], signed by the EPA Regional Administrator on [insert date of most recent MOA], is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(7) *Statement of Legal Authority.* "Attorney General's Statement for Final Authorization", signed by the Attorney General of [insert State name] on [insert appropriate date] and revisions, supplements and addenda to that Statement dated [insert appropriate dates] are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(8) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

*[insert the following paragraph for initial codification]*

3. Appendix A to part 272, State Requirements, is amended by adding in alphabetical order, " [insert State name]" and its listing to read as follows:

*[insert the following paragraph if the State has been codified previously]*

3. Appendix A to part 272, State Requirements, is amended by revising the listing for “ *[insert State name]*” to read as follows:

\* \* \* \* \*

*[Insert State name in bold]*

The statutory provisions include:

*[Insert title of statutory code and date, list of statutory citations]*

Copies of the *[insert State name]* statutes that are incorporated by reference are available from *[insert name and address of official publisher of the State statutes]*.

The regulatory provisions include:

*[Insert title of regulatory code and date, list of regulatory citations]*

Copies of the *[insert State name]* regulations that are incorporated by reference are available from *[insert name and address of official publisher of the State regulations]*.

\* \* \* \* \*

**BILLING CODE: 6560-50-P**